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Supplemental Enforcement Guidance
For February 2002
Management of Bare-Hand-Contact of Ready-to-Eat Foods

Created March 2002

DHFS
DATCP

This document is to give guidance to the industry and regulatory communities on the enforcement procedures for the approval and disapproval of the plans for Management of Bare-Hand-Contact of Ready-to-Eat Foods. These Procedures are to clarify that the allowance of using bare hands with ready to eat food is an approval process and the Regulatory Authority can withdraw that approval.

I. Implementing the Plan

Operator Responsibly:

To have approval the operator must develop a plan based on in the February 2002 “Approval Plan for Management of Bare-Hand-Contact of Ready-to-Eat Foods Guideline”. In this plan, the person-in-charge is familiar with, implements and supervises the food safety practices and risk factors involved with bare hand contact with ready-to-eat foods (Active Management Control). The operator must notify the Regulatory Authority, via telephone or in writing, when your establishment is ready to implement your bare-hand-contact plan. At some point, this plan will need to be validated by the local inspector.

Regulatory Authority’s Responsibility:

The inspector may choose to come out immediately upon notification to verify that your plan is in compliance, or may choose to wait until the next scheduled inspection. As long as you are meeting all the conditions and stipulations listed in the published guidelines, your plan is “approved”. The inspector will validate this plan at each routine inspection.

II. Validation of the plan?

At the time of inspection if there is no plan or documentation of a plan in place, the food establishment DOES NOT have approval for bare hand contact with Ready to Eat Foods. To have approval you must have a written plan filled out and implemented according to the published guidelines.

Provisions that need to be met:

- Signs
- Sinks Supplied
- Specified Tasks Identified
- Specific Food Items Identified
- Cross-contamination issues Identified
- Employee’s Sign off Orientation & Training
- Management Observing (Active Management Control)
- Management Reevaluating plan annually
- All Staff explain their role in plan

The Regulator Authority needs to verify that these points are addressed. If there is something missing in the plan, the inspector will work with the operator to complete the plan.

Once a plan is approved or valid:

If an occurrence of bare hand contact, outside the approved plan, is observed; it is a critical violation of touching ready-to-eat food (Item 11 on the State inspection sheet) not disapproval of the plan. The inspector is to work with the operator to explain the violation and possibly help develop the corrective action into the plan.

However, if the above mentioned points or the Active Management system fails, the approval may be revoked.

Plan being used and violation noted

1. If the plan is in place, but is incomplete or not in compliance:

A. It is a Critical Violation- the plan must be corrected by re-inspection or a *Risk Control Plan must be written.* The inspector will determine when the re-inspection will occur.

B. If corrections are not completed by the re-inspection, the plan may be revoked.

C. If Revoked?

The operator must notify Inspector in writing of readiness to try again.

The inspector will schedule a validation inspection within 30 days of notification.

The plan is **not approved**, in this case, until validation inspection is completed.

D. If revoked a second time?

The operator must wait 6 months before notifying Inspector in writing of readiness to try again.

The inspector will schedule a validation inspection within 30 days of notification.

The plan is **not approved**, in this case, until validation inspection is completed.

E. If revoked a third time?

The operator's approval is permanently lost until a change occurs in the management (the person in charge) responsible for implementing and supervising food safety practices to control risk factors.

2. The Regulatory Authority's responsibility when revoking a Plan

At all the points mentioned above (1A-1E), the inspector is to clearly identify the reasons why the plan is being revoked or denied.

III. Appeal Process:

You have the right to appeal a decision. If a Regulatory Authority inspector revoked your plan and you feel it was not warranted, you must first contact, in writing, the supervisor/director of the inspector who made the decision. Your letter must clearly state exactly why you feel the revocation of your bare-hand-contact privilege was unfair or unfounded. The supervisor shall respond to your request within 30 days of receipt of the letter.

If you disagree with the decision of the supervisor, you may contact the Section Chief in writing. If you are by DATCP, send your letter to Byron Dennison, Division of Food Safety, PO Box 8911, Madison, WI 53708-8911, or 608-224-4715, byron.dennison@datcp.state.wi.us. If you are licensed by DHFS, send your letter to Greg Pallaske, Rm. 133, 1 W Wilson St., Madison, WI 53701, or 608-266-8351, pallaga@dhfs.state.wi.us. The Section Chief shall respond to your request within 30 days of receipt.

What's the bottom line?

The Wisconsin food code prohibits bare hand contact of ready to eat foods. However, the code purposefully allows an exemption: "as otherwise approved by the Department". This is recognition that not all processes in food establishments lend themselves easily to this prohibition. Thus, you have the

opportunity to replace tongs, gloves, and spatulas with an Active Management Control System that implements and supervises the food safety practices and risk factors in your establishment. The responsibility is yours.